

## CHAPTER 21 CONTRACT ADMINISTRATION AND MANAGEMENT

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### 2100 DELEGATION OF CONTRACTING AUTHORITY

- 2100.1 The Board delegates contracting authority to the Executive Director in accordance with the provisions of this chapter, subject to the requirements of §2100.5.
- 2100.2 The Executive Director shall be the chief contracting officer for the Agency, and shall be authorized to appoint contracting officers from among the employees of the Agency, in accordance with the provisions of this chapter.
- 2100.3 The Executive Director may delegate all or any part of his or her contracting authority to the Director of Procurement (the "Director") and to each contracting officer appointed under this chapter.
- 2100.4 Each delegation and modification of delegated contracting authority shall be in writing and shall set forth any limitations on the individual contracting officer's authority.
- 2100.5 Each contract in excess of fifty thousand dollars (\$50,000), including any modification of an existing contract which would increase the value of that contract above this limit, shall be approved by the Board prior to execution. If a contract award is not approved by the Board, the solicitation shall be reissued.

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is §4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, D.C. Law 3-172, D.C. Code §2-2501 *et seq.* (1994 Repl. Vol.).

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6708 (September 22, 1989).

**2101 CONTRACTING OFFICERS**

- 2101.1 Each contracting officer appointed under this chapter is authorized to enter into, administer, and terminate contracts on behalf of the Agency. However, a contracting officer may bind the Agency only to the extent of the contracting authority set forth in a written delegation of authority executed in accordance with §2100.
- 2101.2 A contracting officer shall make all determinations and findings required under this title to be made by a contracting officer for each solicitation or contract for which he or she is responsible.
- 2101.3 A contracting officer shall not enter into a contract unless the contracting officer has ensured that all requirements of law, rules, and all other applicable procedures (including approvals) have been met.
- 2101.4 A contracting officer shall have wide latitude to exercise business judgment.
- 2101.5 Termination of a contracting officer's appointment by the Executive Director shall be in writing unless the written delegation or modification of contracting authority provides for the automatic termination or expiration of that authority. No termination shall operate retroactively.
- 2101.6 The Executive Director shall maintain a file of all delegations, modifications, and terminations of contracting authority.
- 2101.7 A contracting officer shall ensure that sufficient unencumbered budget authority is available for obligation for each contract, in accordance with §3240 of Chapter 32 of Title 27, Contracts and Procurements (hereafter, "Title 27 DCMR").
- 2101.8 The Director shall ensure that each contracting officer is thoroughly familiar with all conflict of interest and other employee conduct provisions of the rules of the Agency and other applicable District laws and regulations.
- 2101.9 A contracting officer shall report suspected improper or unlawful conduct to the Director of Procurement. Suspected violations of antitrust laws and identical bids shall be reported in accordance with the provisions of §1007 of Title 27 DCMR.

SOURCE: Final Rulemaking published at 36 DCR 6681, 6708 (September 22, 1989).

**2102 CONTRACT REVIEW**

- 2102.1 The Executive Director shall perform contract review and approval in accordance with this section.
- 2102.2 Prior to the negotiation of a contract, the Executive Director shall review each determination and findings ("D&F") justifying procurement from a sole source or procurement on an emergency basis.

**2102.3** Prior to the award of a contract, the Executive Director shall review and approve of each of the following:

- (a) A proposed award to other than the apparent low bidder in a procurement by competitive sealed bids;
- (b) A proposed award to other than the highest scored offeror in a procurement by competitive sealed proposals; and
- (c) A prospective contractor's claim of a mistake or request to withdraw its bid.

**2102.4** The Executive Director may require that solicitations or contracts of particular types or above a specified dollar amount must be approved by the Executive Director prior to solicitation, award, or execution.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6709 (September 22, 1989).

### **2103 EXECUTION OF CONTRACTS**

**2103.1** Except as provided in §2103.2, only a contracting officer appointed and exercising authority properly delegated under this chapter is authorized to enter into and sign a contract on behalf of the Agency.

**2103.2** In accordance with the provisions of D.C. Code §2-2536(c) (1994 Repl. Vol.), all contracts for the operation of gambling forms awarded under §2001.2 of Chapter 20 of this title, shall be signed by the Chairperson of the Lottery and Charitable Games Control Board, designated in accordance with D.C. Code §2-2501(a) (1994 Repl. Vol.), in addition to a contracting officer designated under this chapter.

**2103.3** The Chairperson of the Board is not a designated contracting officer. The signature of the Chairperson of the Board, while required for the lawful execution of certain contracts in accordance with D.C. Law 3-172 and this section, shall be deemed a ministerial act and shall not require that the Chairperson of the Board undertake or be responsible for any of the actions which are required to be taken by a contracting officer.

**2103.4** The following provisions of Chapter 12 of Title 27 DCMR, relating to contract execution and contract distribution shall apply to procurements by the Agency:

- (a) Title 27 DCMR, Chapter 12, §§1200.2 through 1200.7;
- (b) Title 27 DCMR, Chapter 12, §§1201.1 through 1201.5; and
- (c) Title 27 DCMR, Chapter 12, §§1202.1 through 1202.2.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6710 (September 22, 1989).

**2104 CONTRACT FILES**

2104.1 The Director of Procurement shall be responsible for establishment of contract files containing the records of each of the following:

- (a) Each solicitation, including canceled solicitation;
- (b) All bids and proposals received;
- (c) Each contract awarded; and
- (d) Contract payments.

2104.2 The documentation in each contract file shall be sufficient to constitute a complete history of the transaction, in accordance with §1202.2 of Title 27 DCMR.

2104.3 Each bid or proposal file shall be kept for a minimum of three (3) years, and shall contain the following information:

- (a) The invitation or request number;
- (b) The bid or proposal opening and closing dates;
- (c) A general description of the procurement item;
- (d) The names of bidders or offerors contacted and the nature of the contact, as well as, the names of all bidders or offerors that respond to the solicitation; and
- (e) The prices bid or proposed.

2104.4 In addition to the requirements of §2104.3, any other information required for bid or proposal evaluation also must be entered into the abstract or record and be available for public inspection upon request.

2104.5 The following provisions of Chapter 12 of Title 27 DCMR relating to contract files and the physical completion of contracts shall apply to procurements by the Agency:

- (a) Title 27 DCMR, Chapter 12, §1203.2;
- (b) Title 27 DCMR, Chapter 12, §§1203.4 through 1203.8;
- (c) Title 27 DCMR, Chapter 12, §1204; and
- (d) Title 27 DCMR, Chapter 12, §1205.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6710 (September 22, 1989).

**2105 DETERMINATIONS AND FINDINGS**

2105.1 The following provisions of Chapter 12 of Title 27 DCMR relating to determinations and findings shall apply to procurements by the Agency:

- (a) Title 27 DCMR, Chapter 12, §§1206.1 through 1206.7;
- (b) Title 27 DCMR, Chapter 12, §1207; and
- (c) Title 27 DCMR, Chapter 12, §1208.

2105.2 The provisions of §1206.8 of Title 27 DCMR shall not apply to procurement by the Agency. Wherever certification of a determination and findings ("D&F") is required under this title or Title 27 DCMR, the D&F shall be certified by the Executive Director.

SOURCE: Final Rulemaking published at 36 DCR 6681, 6711 (September 22, 1989).

**2106 PROCUREMENT PLANNING**

2106.1 Procurement planning for the Agency shall be conducted under the direction of the Director of Procurement with the cooperation of the various divisions of the Agency.

2106.2 The provisions of §1210 of Title 27 DCMR may be used for guidance by the Director in conducting procurement planning.

SOURCE: Final Rulemaking published at 36 DCR 6681, 6712 (September 22, 1989).

**2107 POSTAWARD ORIENTATION**

2107.1 The provisions of §1211 of Title 27 DCMR shall govern the use of postaward orientation by contracting officers of the Agency.

2107.2 The provisions of §§1212 and 1213 of Title 27 DCMR shall govern the use and conduct of postaward conferences, including postaward conferences with subcontractors, by contracting officers of the Agency.

SOURCE: Final Rulemaking published at 36 DCR 6681, 6712 (September 22, 1989).

**2108 INDIRECT COST RATES AID DISALLOWANCE OF COSTS**

2108.1 The Director of Procurement is authorized to establish indirect cost rates in accordance with the provisions of §1215 of Title 27 DCMR.

2108.2 The Director may utilize indirect cost rates established for any contractor by the Director of the Department of Administrative Services.

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2108.3 The following provisions of Chapter 12 of Title 27 DCMR relating to the disallowance of costs and the disallowance of incurred costs shall apply to procurements by the Agency:

- (a) Title 27 DCMR, Chapter 12, §1216; and
- (b) Title 27 DCMR, Chapter 12, §1217.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6712 (September 22, 1989).

**2109 NOVATION AND CHANGE OF NAME AGREEMENTS**

2109.1 Except as provided in §2109.2, the provisions of §1220 of Chapter 12 of Title 27 DCMR, relating to novations and change of name agreements shall apply to procurements by the Agency.

2109.2 Pre-execution review of novations and change of name agreements, as required in §§1220.5 and 1220.8 of Chapter 12 of Title 27 DCMR, may be conducted by counsel retained or employed by the Agency or by the Corporation Counsel, at the option of the Executive Director.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6712 (September 22, 1989).

**2110 USE OF THE D.C. PROCUREMENT HOTLINE**

2110.1 The Director of Procurement (the "Director") shall use the contract information hotline established by the Department of Administrative Services ("DAS") under an agreement for use of the hotline made with the Director, DAS.

2110.2 If the Agency is unable to enter into an agreement with the Director, DAS, for use of the D.C. Procurement Hotline, or if the Procurement Hotline is discontinued, the Director of Procurement may establish a contract information hotline.

2110.3 The following information shall be provided by prerecorded message to callers on the hotline:

- (a) The title of the invitation for bid, or other identifying information on the contract;
- (b) The nature of the procurement, including whether the procurement is for supplies or services;
- (c) A brief description of the type of supplies or services being sought and whether the offer is for spot acquisition or term contract;
- (d) The amount of deposit required, if any;
- (e) Whether the contract is restricted to the sheltered market or is available to the open market;

- (f) The date and time by which bids or requests for proposals must be submitted and the place for submission;
- (g) Where and when further information on the contracts may be obtained; and
- (h) Any other information that the Director of Procurement considers appropriate and practicable.

**2110.4** The information described in §2110.3 shall be updated once per week, or at intervals that the Director considers more appropriate and practicable.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6713 (September 22, 1989).

**2111 MATERIAL MANAGEMENT INFORMATION SYSTEM**

**2111.1** In accordance with §202(e) of the D.C. Procurement Practices Act of 1985 (the "Act"), D.C. Code §1-1182.2 (1992 Repl. Vol.), the Executive Director shall ensure that a material management information system ("MMIS") is established by the Agency, and that this MMIS is compatible with the reporting system required under §202(d) of the Act, in accordance with rules issued by the Mayor which specify MMIS reporting formats, minimum levels of information, and other data concerning procurement operations and compliance with applicable law.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6713 (September 22, 1989).

**2112 PUBLICIZING CONTRACT ACTIONS**

**2112.1** The Director of Procurement shall give notice of the solicitation for bids or proposals for each contract with an estimated price of more than ten thousand dollars (\$10,000) in accordance with the provisions of §2202 of Chapter 22 of this title (sealed bid procurements) or §2304 of Chapter 23 of this title (sealed proposal procurements), whichever is applicable, except as provided in otherwise in §2112.4.

**2112.2** A contracting officer may provide additional advertisement of solicitations by using any of the following methods:

- (a) Displaying copies or summaries of a solicitation on bulletin boards in the contracting office and other public places;
- (b) Mailing a copy of a solicitation to prospective bidders or offerors on a solicitation mailing list; or
- (c) Sending copies of notices or summaries of solicitations to organizations that maintain, without charge to the public or to subscribers, display rooms for the benefit of prospective bidders, offerors, subcontractors, and suppliers.

**2112.3** The Director of Procurement shall submit notices of contract awards for contracts over ten thousand dollars (\$10,000) to the Department of Administrative Services for publication in the "*District of Columbia Procurement Digest*."

2112.4 The requirements for public notice of solicitations shall not apply to the following:

- (a) Sole source procurements under Chapter 24 of this title;
- (b) Emergency procurements under Chapter 24 of this title;
- (c) Small purchases under Chapter 25 of this title; or
- (d) Procurement of professional services where a waiver has been granted by the Executive Director under §2011.4.

**SOURCE:** Final Rulemaking published at 36 DCR 6681, 6714 (September 22, 1989).

**2199 DEFINITIONS**

2199.1 The definitions of terms and phrases set forth in §2099 of Chapter 20 of this title shall apply to this chapter.

2199.2 The definitions of terms and phrases set forth in §1299 of Chapter 12 of Title 27 DCMR, where those terms and phrases are not defined in §2099 of Chapter 20 of this title, shall apply to this chapter.